

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

**LAURA LASCOLA, Individually and
as Sole Heir and Next of Kin of NORMA
DALE MASSA, Deceased,**

PLAINTIFF,

VS.

CIVIL ACTION NO. 2:06CV80-P-A

**BARDEN MISSISSIPPI GAMING, LLC,
ET AL.,**

DEFENDANTS.

ORDER

This matter comes before the court upon Plaintiff's Motion to Modify and Supplement Record for Purposes of Appeal [522]. After due consideration of the motion and the response filed thereto, the court finds as follows, to-wit:

Federal Rule of Appellate Procedure 10(e)(2) provides: "If anything material to either party is omitted from or misstated in the record **by error or accident**, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded: (A) on stipulation of the parties; (B) by the district court before or after the record has been forwarded; or (C) by the court of appeals." (emphasis added).

The court concludes that the plaintiff has not established that the entire deposition transcript of Mr. Dugan was not previously supplied to the court before Final Judgment was entered on August 8, 2008 by error or accident. The defendant's argument is un rebutted that the plaintiff had access to the entirety of the deposition well before the court rendered judgment and that the plaintiff chose not to submit the entire deposition to the court.

IT IS THEREFORE ORDERED AND ADJUDGED that Plaintiff's Motion to Modify and Supplement Record for Purposes of Appeal [522] is **DENIED**.

SO ORDERED this the 27th day of January, A.D., 2009.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE